

In the Matter of)
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Connect America Fund) WC Docket No. 10-90

ACS of Anchorage, Inc., ACS of the Northland, Inc., ACS of Fairbanks, Inc., and ACS of Alaska, Inc. (collectively, “ACS” or the “ACS ILECs”),¹ submit these comments in response to the Wireline Competition Bureau’s (“Bureau”) Public Notice seeking “comment on a proposed survey of urban rates for fixed voice and fixed broadband residential services” as well as how to use the data from the survey “to determine the local rate floor and the reasonable comparability benchmarks for fixed voice and fixed broadband services.”²

ACS has been an active participant in the Commission's *Connect America Fund* proceedings,³ contributing detailed Alaska-specific information to the record, and proposing solutions with regard to the uniquely high costs of expanding broadband service in Alaska. By now, the Commission is familiar with the unique costs inherent in bringing telecommunications and information services to the residents of Alaska, costs that have impacted the provision of public switched voice service in Alaska, and are causing Alaska to lag behind the rest of the

³ See e.g., *Connect America Fund*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (“*USF/ICC Transformation Order*” or “*Further Notice*”).

nation in broadband deployment.⁴ The retail rates for voice and broadband services primarily are driven by the costs of providing such services and the level of support available through universal service programs to offset these costs. Therefore, it should come as no surprise that, because the costs of offering voice and broadband services in Alaska are not comparable to the costs of offering these services in the Lower 48, neither will the rates for such services be comparable to those in the Lower 48, nor to any national average. For this reason, ACS advocates that, for Alaska carriers that serve both urban and rural areas, the correct measure of reasonable comparability for fixed voice and broadband services in supported areas is not a national urban average but rates charged by the carrier itself and its affiliates in their urban areas.

The focus of these comments is on the use of data from the rate survey in measuring reasonable comparability of rates, rather than on the means by which the Commission should establish the Urban Rate Floor. As a result of the higher costs to provide service in Alaska, ACS's retail rates are already at a level that the company expects to exceed the rate floor ultimately chosen by the Commission.

⁴ As ACS has explained on a number of occasions, most recently in the Commission's Ninth Broadband Progress Notice of Inquiry, the costs of providing broadband service in Alaska are a result of "long loop lengths, lack of fiber-based middle mile facilities, transport over thousands of miles to reach the nearest Internet access point, lack of road and power infrastructure that necessitate alternative and expensive means of building and maintaining network facilities, sparse population that increases the per-unit cost of broadband, extremes of terrain and weather, a short construction season, and labor constraints." See Comments of Alaska Communications Systems Group, Inc., *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 12-228 at 7-8 (filed Sept. 20, 2012), citing Alaska Communications Presentation at FCC Workshop on CAF II Model (Sept. 13-14, 2012) ("ACS CAF II Model Presentation"). Many of these same factors drive up the cost of providing voice service across Alaska.

II. DISCUSSION

Rate comparability for carriers serving high-cost areas is largely dependent on the carrier's access to sufficient support to offset those high costs, either from intrastate or interstate mechanisms. Carriers serving high-cost areas have been able to provide services at reasonable rates historically because some of their costs were recovered through intercarrier compensation and universal service support mechanisms.

The Commission's decision to curtail carriers' intercarrier compensation revenue and to limit the overall size of the Connect America Fund ("CAF") and Remote Areas Fund ("RAF") will inevitably place pressure on carriers to recover more of their costs from retail rates. Because carriers, like other businesses, need to recover their costs and earn a return on their investment, retail rates simply must be set at levels that reflect the level of funding available (or not available) from these other sources, or the services will not be provided at all.

For the Commission, this axiomatic truth means that its evaluation of reasonable comparability is inexorably linked to its 2011 decision to place severe limits on the size of the CAF and RAF support mechanisms. The level of variation in rates that the Commission deems consistent with the principle of "reasonably comparability"⁵ must be determined in light of the Commission's degree of willingness to provide support that is adequately "specific, predictable and sufficient"⁶ to achieve that comparability mandate. With the CAF and RAF mechanisms so dramatically underfunded, the Commission must accept that retail rates offered by carriers serving high-cost areas, such as small, rural, and bush communities of Alaska, may vary considerably from any national average, yet still be considered "reasonably comparable."

⁵ 47 U.S.C. § 254(b)(3).

⁶ 47 U.S.C. § 254(b)(5).

Penalizing such carriers by reducing or withdrawing support for services offered at rates deemed “not reasonably comparable” is counterproductive at best. Carriers that are not able to maintain reasonably comparable rates with the level of universal service support offered by federal and, if available, state mechanisms are unlikely to be any better able to do so if they lose that support. Therefore, it is essential that the Commission choose a range of reasonable comparability that reflects the support available to offset these high costs and keep rates within the reasonable comparability range. Only thus will the Commission avoid a spiraling situation that causes a carrier to raise rates to levels that are not within a range of reasonable comparability in an attempt to cover its higher costs, thereby resulting in loss of support and then the need to further increase rates that are not competitive, which may ultimately cause the carrier to leave the market.

With reduced support based on current levels of CAF funding it is not reasonable to expect that ACS can achieve voice and broadband rates that are reasonably comparable to those in urban areas of the Lower 48. As a carrier in a high-cost state that is already required to charge geographically averaged voice rates, ACS supports the Commission’s proposal to measure the reasonable comparability of rates for carriers that, together with their affiliates, serve both urban and rural areas using a local approach, specifically an approach that deems rates reasonably comparable if the carrier’s rural rates are the reasonably comparable to the rates of the carrier itself and its affiliates in their urban areas.⁷

⁷ Importantly, it is only with sufficient support that the same rates can be achieved between a carrier’s rural areas and the urban rates for the carrier itself and its affiliates.

A. Rate Comparability For Carriers Serving Both Urban and Rural Areas Should Be Measured Based on A Local Approach

The Bureau seeks further focused comment on adoption of a “presumption that if a given provider is offering the same rates, terms and conditions (including capacity limits) to both urban and rural customers, that is sufficient to meet the statutory requirement that services be reasonably comparable.”⁸ The Bureau also acknowledges that, with regard to reasonable comparability for fixed broadband service “[t]o the extent there were a presumption that offering the same service in both rural and urban areas meets the reasonable comparability requirements of the statute, there would be no need for some providers to compare their broadband rates to a national average urban rate benchmark derived from the results of the proposed rate survey.”⁹

ACS supports a presumption that the comparability of rates for carriers serving both urban and rural areas be measured on the basis of the “rates provided within a state, within a technology platform, and within a single provider or family of providers.”¹⁰ The Commission has acknowledged that rates and calling plans vary from state to state,¹¹ and in some cases those variances are a result of extreme differences in costs and conditions to provide service, such as in Alaska. Rates necessarily reflect these higher costs, even with universal service support to offset the impact of some of the costs. Notably, even in Alaska’s sole urban area, Anchorage, with its greater population density, better road infrastructure, fewer terrain issues, lower middle mile costs, more reasonable loop lengths, access to the power grid, and greater access to available

⁸ Public Notice, ¶ 16, *citing Further Notice* at 18047, ¶ 1027.

⁹ Public Notice, ¶ 18.

¹⁰ *Connect America Fund*, Comments of Alaska Communications Systems Group, Inc., WC Docket No. 10-90, *et al.* at 9 (filed Jan. 18, 2012) (“ACS FNPRM Comments”); *see also* *Connect America Fund*, Reply Comments of Alaska Communications Systems Group, Inc., WC Docket No. 10-90, *et al.* at 4 (filed Feb. 17, 2012) (“ACS FNPRM Reply Comments”).

¹¹ *USF/ICC Transformation Order*, ¶¶ 235-236.

labor than in the rural areas of the state, costs for voice and broadband service in Anchorage still are higher than those elsewhere in the nation, so rates may not be comparable to a weighted national average. As proposed by the Bureau, such an average urban rate would be driven by the rates charges by companies that are many times larger than ACS, with average company-wide costs far below those of an Alaska-based carrier.¹²

Moreover, among the generally higher costs to provide service in Alaska, several affect the cost of broadband throughout the state, even in Anchorage. Notably, broadband Internet access service for *all* Alaska consumers depends on costly undersea cables to transport Internet traffic to and from the nearest Internet access points in Oregon and Washington state. Adding in the many other costs that ACS has identified as necessary to provide fixed voice and broadband service in the most rural areas of Alaska – for example, these rural areas include communities that are separated by thousands of miles, that may only be accessible by plane and only at certain times of the year, or rely on generators which require regular refueling – it is unrealistic to expect that rates for services provided in these areas will fall within the proposed two standard

¹² See Public Notice, ¶ 13. The Bureau’s proposal to develop a national average that is population-weighted would exacerbate the inequity of measuring carriers like ACS against a national average. Population weighting favors larger local exchange carriers, which will likely be able to offer lower rates due to factors such as customer density.

There are other concerns in measuring carriers like ACS against a national average, notably that the average rate may be lowered unfairly if the survey includes artificially low rates that have been generated by merger conditions. Therefore, the Commission should ensure that “non-discounted rates that are available to potential customers,” as defined in paragraph 9 of the Public Notice, exclude not only promotional or bundled pricing, but also pricing from regulatory fiat, such as merger conditions, or support from mechanisms other than CAF, such as the low income broadband pilot program. Similarly, the results of the survey may be skewed by focusing only on rates for single categories of services, specifically voice and broadband services individually, when service offerings purchased by customers are increasingly bundled services.

deviations of a national average of rates based predominately on rates in the Lower 48.¹³ The Commission should not dictate that the rates of Alaska carriers that serve both urban and rural areas be measured by a Lower 48-driven national average.

A local approach will fulfill the statutory requirement that rates in urban and rural areas be “reasonably comparable.” As ACS has commented previously, the “Communications Act does not require that all customers in a state have access to exactly the same services at the same rates – only that rural customers have access to services reasonably comparable to those available to urban customers, at reasonably comparable rates.”¹⁴ Accordingly, ACS proposes that the “Commission should adopt a presumption that, if a provider (or its affiliates under common ownership or control) offers reasonably comparable rates, terms and conditions to both urban and rural customers, it meets the Act’s requirements that services are reasonably comparable.”¹⁵ The comparison for carriers serving both urban and rural areas should not be whether their rates are comparable to a national urban average. A local approach is the most fair

¹³ Importantly, a population-weighted average could also artificially reduce the size of the standard deviation, making it even more difficult for carriers like ACS to meet a comparability test based on a national average.

¹⁴ ACS FNPRM Comments at 9. *See* 47 U.S.C. § 254(b)(3). ACS has also stressed that the unique factors of serving both urban and rural areas necessitates a varied approach to comparability, noting for example that “not all plans may be offered in all areas due to lack of demand – for example, very high-capacity broadband capability may not be available in a location with no enterprise customers.” ACS FNPRM Comments, note 14.

¹⁵ ACS FNPRM Comments at 9. Moreover, the services that are subject to the Commission’s proposed presumption about comparability for carriers serving both urban and rural areas should be on those services that are required for receiving CAF support, specifically basic voice services within the Commission’s definition of universal service, 47 C.F.R. § 54.101, and broadband at the Commission’s designated 4 Mbps downstream/1 Mbps upstream speeds. The rates measured against the national average developed through the surveyed rates should also be those that are required for receiving CAF support. When responding to the proposed rate survey, carriers offering service within the first proposed broadband speed tier should not be required to respond to questions seeking rates for broadband at higher speed tiers not required under the Commission’s CAF rules.

for carriers serving areas where rates are driven by significantly higher costs than those in the Lower 48,¹⁶ but also the simplicity of such an approach is easier to administer and it will minimize the need for Alaska carriers to seek waivers of the national average requirement.¹⁷

B. Non-Recurring Charges Are Irrelevant For Reasonable Rate Comparability and Such Data Should Not Be Collected

The Bureau seeks comment on whether it should take into account non-recurring charges when computing the fixed voice rate benchmark, as well as when computing the fixed rate broadband benchmark.¹⁸ Simply put, non-recurring charges should not play any part in determining whether rates are reasonably comparable.

“Rates” for fixed voice service commonly refers to the monthly recurring charges that carriers advertise. Non-recurring charges are special fees associated with initiating, extending, modifying, restoring, or repairing service, but are not the fees for the service itself. Non-recurring charges vary widely not only between different states and between different carriers, but also from one customer service event to another. Indeed, a single type of charge can range from a nominal fee on one occasion to a quite hefty fee on another.¹⁹ The causes for these

¹⁶ Notably, the cost to provide broadband in some of ACS’s most rural areas can be \$5,000 per location or more. This is a significant variance from the cost of providing broadband in ACS’s sole urban area, Anchorage. With such variances it will be difficult to achieve rate comparability even between ACS’s rural locations and Anchorage. Moreover, absent adequate and predictable support mechanisms, the comparability requirement will be a disincentive to provide broadband to high-cost locations.

¹⁷ An alternative to implementing a local approach for carriers serving both urban and rural areas would be to measure them against a national average, but to set a wider standard deviation for them than the standard deviation set for carriers serving in the Lower 48. This alternative could be more difficult to implement and administer, and would merely serve the same objectives as the local approach through means less narrowly targeted to local conditions.

¹⁸ See Public Notice, ¶¶ 13 and 19.

¹⁹ For example, in Alaska a service visit may require a technician to fly to the premises with the flight being highly dependent on weather. This type of service call can involve extreme and

variations include many idiosyncratic factors, including the customer premises location, the time of year of the service event, the state of facilities at the premises receiving service, and the need for a technician to visit the premises. Other factors that may determine whether a non-recurring charge applies include a customer's commitment to a specified length of service, the number of services selected, or certain special contracts. None of these fees are the rates for the service itself, but rather allow the carrier to recover its one-time incremental costs associated with providing service on a particular date to a particular customer.

Because of the wide variations in these fees, they would be burdensome for carriers to report, with many categories of fees varying within a wide range, and great variations from year to year. In addition, requiring all carriers nationwide to collect and report non-recurring charge amounts would be unlikely to yield data that easily could be synthesized by the Bureau. Ultimately, such an effort would prove of little utility in determining rate comparability within the meaning of the Act.

III. CONCLUSION

For the foregoing reasons, ACS urges the Commission to take into account the significantly higher costs of providing voice and broadband service in Alaska and how those costs impact rates in Alaska. Based on these unique factors, ACS urges the Commission measure reasonable rate comparability for carriers like ACS that serve both urban and rural areas that are extremely high cost using a local approach that compares the carrier's own rural rates to

variable costs, as in the case where ACS had scheduled five technician service visits in one year to Nikolski, a village in the Aleutian islands which is only accessible by air via Dutch Harbor (a double hop from Anchorage). The technician was unable to reach the village on any of the five occasions due to weather and flight unavailability, but the company still incurred costs of \$54,000 and lost five days of technician time in making the service attempts. *See* ACS CAF II Model Presentation. Even if non-recurring charges are deemed to have some relevance with regard to rates, in Alaska the value of this data is limited due to its significant variability.

the urban rates for the carrier itself and its affiliates, not a comparison of its rural and urban rates against a national average that is formulated on a basis of carriers in the Lower 48 with significantly lower costs.

Respectfully submitted,

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